

111TH CONGRESS  
1ST SESSION

# S. 769

To amend title XVIII of the Social Security Act to improve access to, and increase utilization of, bone mass measurement benefits under the Medicare part B Program.

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## IN THE SENATE OF THE UNITED STATES

APRIL 1, 2009

Mrs. LINCOLN (for herself, Ms. SNOWE, Mr. WHITEHOUSE, Ms. STABENOW, and Mrs. FEINSTEIN) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend title XVIII of the Social Security Act to improve access to, and increase utilization of, bone mass measurement benefits under the Medicare part B Program.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Medicare Fracture  
5 Prevention and Osteoporosis Testing Act of 2009”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) Since 1997, Congress has recognized the  
9 importance of osteoporosis prevention by standard-

1        izing reimbursement under the Medicare program  
2        for bone mass measurement.

3            (2) One decade later, osteoporosis remains  
4        underdiagnosed and untreated despite numerous  
5        Federal initiatives, including recommendations of the  
6        United States Preventive Services Task Force, the  
7        2004 United States Surgeon General's Report on  
8        Bone Health and Osteoporosis, and inclusion of bone  
9        mass measurement in the Welcome to Medicare  
10       exam.

11           (3) Even though osteoporosis is a highly man-  
12        ageable disease, many patients lack access to early  
13        diagnosis that can prevent debilitating fractures,  
14        morbidity, and loss of mobility.

15           (4) Although Caucasians are most likely to sus-  
16        tain osteoporosis fractures, the cost of fractures  
17        among the nonwhite population is projected to in-  
18        crease by as much as 180 percent over the next 20  
19        years.

20           (5) Black women are more likely than White  
21        women to die following a hip fracture.

22           (6) Osteoporosis is a critical women's health  
23        issue. Women account for 71 percent of fractures  
24        and 75 percent of osteoporosis-associated costs.

1           (7) The World Health Organization, the Cen-  
2           ters for Medicare & Medicaid Services, and other  
3           medical experts concur that the most widely accept-  
4           ed method of measuring bone mass to predict frac-  
5           ture risk is dual-energy x-ray absorptiometry (in this  
6           Act referred to as “DXA”). Vertebral fracture as-  
7           sessment (in this Act referred to as “VFA”) is an-  
8           other test used to identify patients at high risk for  
9           future fracture.

10           (8) DXA is a cost-effective preventive test with  
11           proven results in real world settings. DXA testing  
12           increases the number of individuals who are diag-  
13           nosed and treated, resulting in a dramatic reduction  
14           in hip fractures and related costs.

15           (9) Unlike other imaging procedures, DXA re-  
16           mains severely underutilized with only 1 in 4 women  
17           taking advantage of the benefit every 2 years.

18           (10) Underutilization of bone mass measure-  
19           ment will strain the Medicare budget because—

20                   (A) 55 percent of the people age 50 and  
21                   older in 2002 had osteoporosis or low bone  
22                   mass;

23                   (B) more than 61,000,000 people in the  
24                   United States are projected to have osteoporosis

1 or low bone mass in 2020, as compared to  
2 43,000,000 in 2002;

3 (C) osteoporosis fractures are projected to  
4 increase by almost 50 percent over the next 2  
5 decades with at least 3,000,000 fractures ex-  
6 pected to occur annually by 2025;

7 (D) the population aged 65 and older rep-  
8 resents 89 percent of fracture costs; and

9 (E) the economic burden of osteoporosis  
10 fractures is projected to increase by 50 percent  
11 over the next 2 decades, reaching  
12 \$25,300,000,000 in 2025.

13 (11) Underutilization of bone mass measure-  
14 ment will also strain the Medicaid budget, which  
15 funds treatment for osteoporosis in low-income  
16 Americans.

17 (12) Reimbursement under the Medicare pro-  
18 gram for DXA provided in physician offices and  
19 other non-hospital settings was reduced by 50 per-  
20 cent and is scheduled to be reduced by a total of 62  
21 percent by 2010. This drop represents one of the  
22 largest reimbursement reductions in the history of  
23 the Medicare program. Reimbursement for VFA will  
24 also be reduced by 30 percent by 2010.

1           (13) The reduction in reimbursement discour-  
 2           ages physicians from continuing to provide access to  
 3           DXA or VFA in their offices. Since two-thirds of all  
 4           DXA scans are performed in nonfacility settings,  
 5           such as physician offices, patient access to bone  
 6           mass measurement will be severely compromised  
 7           when physicians discontinue providing those tests in  
 8           their offices, thereby exacerbating the current under-  
 9           utilization of the benefit.

10 **SEC. 3. MINIMUM PAYMENT FOR BONE MASS MEASURE-**  
 11 **MENT.**

12           (a) IN GENERAL.—Section 1848(b) of the Social Se-  
 13           curity Act (42 U.S.C. 1395w-4(b)), as amended by section  
 14           144 of the Medicare Improvements for Patients and Pro-  
 15           viders Act of 2008 (Public Law 110–275), is amended by  
 16           adding at the end the following new paragraph:

17           “(6) TREATMENT OF BONE MASS SCANS.—Not-  
 18           withstanding the provisions of paragraph (1), the  
 19           Secretary shall establish a national minimum pay-  
 20           ment amount for CPT code 77080 (relating to dual-  
 21           energy x-ray absorptiometry) and CPT code 77082  
 22           (relating to vertebral fracture assessment), and any  
 23           successor to such codes as identified by the Sec-  
 24           retary. Such minimum payment amount shall not be  
 25           less than 100 percent of the reimbursement rates in

1 effect for such codes (or predecessor codes) on De-  
 2 cember 31, 2006.”.

3 (b) EFFECTIVE DATE.—The amendment made by  
 4 subsection (a) shall apply to bone mass measurement fur-  
 5 nished on or after January 1, 2010.

6 **SEC. 4. STUDY AND REPORT BY THE INSTITUTE OF MEDI-**  
 7 **CINE.**

8 (a) IN GENERAL.—The Secretary of Health and  
 9 Human Services shall enter into an arrangement with the  
 10 Institute of Medicine of the National Academies to con-  
 11 duct a study on the following:

12 (1) The ramifications of Medicare reimburse-  
 13 ment reductions for DXA and VFA on beneficiary  
 14 access to, and the quality of, bone mass measure-  
 15 ment benefits in general and in rural and minority  
 16 communities specifically.

17 (2) Methods to increase use of bone mass meas-  
 18 urement by Medicare beneficiaries.

19 (b) REPORT.—The agreement entered into under  
 20 subsection (a) shall provide for the Institute of Medicine  
 21 to submit to the Secretary and to Congress, not later than  
 22 1 year after the date of the enactment of this Act, a report  
 23 containing a description of the results of the study con-  
 24 ducted under such subsection and the conclusions and rec-  
 25 ommendations of the Institute of Medicine regarding each

1 of the issues described in paragraphs (1) and (2) of such  
2 subsection.

